

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

LARRY DARNELL HOPSON,)
vs. Petitioner,) NO. CIV-04-1736-T
MIKE ADDISON,)
Respondent.)

ORDER

Petitioner, a state prisoner appearing *pro se*, brought this action for a writ of habeas corpus pursuant to 28 U.S.C. §2254. In accordance with 28 U.S.C. §636(b)(1)(B), the matter was referred to United States Magistrate Judge Robert E. Bacharach for initial proceedings. Respondent filed a motion to dismiss the petition, arguing that the statute of limitations has expired on petitioner's claims.

The court file reflects that petitioner did not file a response to the motion to dismiss. However, in response to a previous order in which he was directed to show cause why this action should not be dismissed as untimely, he argued that the statute of limitations should be tolled. *See* Doc. No. 7.

On March 29, 2005 the magistrate judge filed a Report and Recommendation [Doc. No. 13] in which he considered petitioner's tolling argument and found that tolling does not apply. Therefore, he recommended that the motion to dismiss be granted.

In the Report and Recommendation, the magistrate judge advised petitioner of his right to object to the findings and conclusions set forth therein, and he set an April 19, 2005 deadline for filing such

objection. The magistrate judge further advised petitioner that a failure to timely file an objection would result in a waiver of his right to appellate review of the Report and Recommendation.

To date, petitioner has not filed an objection and has not sought an extension of time in which to do so. In any event, the court agrees with the merits of the recommendation that the action should be dismissed as untimely. Therefore, the Report and Recommendation [Doc. No. 5] is adopted as though fully set forth herein. The action is dismissed.

IT IS SO ORDERED this 2nd day of May 2005.



RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE